

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Case No.: 12-00075-01-CR-W-DGK
)
)
MARCUS D. GAMMAGE,)
)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on July 31, 2013. Defendant Gammage appeared in person and with appointed attorney Bill Raymond and Stephanie Elliott, paralegal. The United States of America appeared by Special Assistant United States Attorney Shalanda Smith and Assistant United States Attorney Bruce Clark.

I. BACKGROUND

On March 13, 2012, an indictment was returned charging Defendant with one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Smith announced that she will be the trial counsel for the government; Mr. Clark will assist. The case agent to be seated at counsel table is Independence, Missouri Police Department Detective Keith Rosewarren.

Mr. Raymond announced that he will be the trial counsel for Defendant Gammage. He will

be assisted by Ms. Elliott.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Ms. Smith announced that the government intends to call ten witnesses without stipulations or eight witnesses with stipulations during the trial.

Mr. Raymond announced that Defendant Gammage intends to call four witnesses during the trial. Defendant may testify.

V. TRIAL EXHIBITS

Ms. Smith announced that the government will offer approximately eleven exhibits in evidence during the trial.

Mr. Raymond announced that Defendant Gammage will offer approximately ten exhibits in evidence during the trial.

VI. DEFENSES

Mr. Raymond announced that Defendant Gammage will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Raymond stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to Defendant's prior felony conviction and the interstate nexus of firearm.

IX. TRIAL TIME

Counsel were in agreement that this case will take two to three days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 29, 2012, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by July 31, 2013;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, August 7, 2013;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, August 7, 2013. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Defendant plans to file motions in limine regarding the dash-cam video and character evidence under Federal Rule of Evidence 404(a) and (b). The Government plans to file motions in limine concerning two witnesses' prior convictions on grounds that they are more than ten years old and also to prohibit admission of the personnel file of a law enforcement officer.

XII. TRIAL SETTING

All counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on August 12, 2013.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by August 9, 2013. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

/s / Robert E. Larsen

ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
July 31, 2013

cc: Mr. Kevin Lyon